

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JENNIFER RICE and
TROY BAKER,

Plaintiffs,

v.

CIV 00-1669 WJ/DJS-ACE

THE CITY OF SANTA FE, in its official capacity,
and JOHN DENKO, in his individual capacity,

Defendants.

MEMORANDUM OPINION AND ORDER GRANTING
PLAINTIFFS' MOTION TO STRIKE


THIS MOTION comes before the Court pursuant to Plaintiffs' Motion to Strike [Docket No. 104]. Plaintiffs move to strike Exhibit E to the Memorandum in Support of Defendant Denko's Motion for Partial Summary Judgment No. II [Docket No. 94].

The Exhibit in question is a letter from Plaintiffs' counsel to the City Attorney outlining settlement terms. The letter is nothing more and nothing less than an offer of compromise in this case in accordance with Fed. R. Evid. 408. It is, therefore, inadmissible to show the invalidity of a claim. Defendants offer the letter, in conjunction with other documents, to show the invalidity of Plaintiffs' claims.

Defendants argue that Plaintiffs "opened the door" to the admission of the letter because the letter was specifically referred to in Plaintiffs' Complaint. The plain language of the Complaint, however, makes no reference to the letter itself. Thus, Plaintiffs have not waived the inadmissibility of the letter.

Defendants further argue that the letter is not being admitted for a purpose barred by Rule 408. Instead, the letter is being offered to show that Chief Denko made a good faith effort to resolve the dispute in response to the letter, and has no animus toward Plaintiffs and to rebut Plaintiffs' allegations of animus. Thus, by Defendants' own arguments, the letter is being offered to show the invalidity of Plaintiffs' allegations. As such, the letter is inadmissible.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Strike [Docket No. 104] is hereby GRANTED.



UNITED STATES DISTRICT JUDGE